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# 1998 Survey of Rhode Island Law: Legislation: Motor Vehicle: An Act Relating to Motor and Other Vehicles

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**Motor Vehicles.** *An Act Relating to Motor and Other Vehicles.* Provides that persons denied a license shall be notified, in writing, by the registry of motor vehicles concerning the basis for such denial, the procedure for requesting a hearing, and the rights afforded under Rhode Island law. Effective, July 3, 1998. 1998 R.I. Pub. Laws ch. 89.

This legislation (the Act) amends section 31-10-3 and 31-10-44 of the Rhode Island General Laws, entitled "Operators' and Chauffeurs' Licenses." The Act provides for a system of notification by the registry for those individuals who have been determined ineligible for licenses in this state.<sup>1</sup> While the Act does not change who may possess a operator's or chauffeur's license, it does provide for the notification of certain due process rights.<sup>2</sup>

Under the Act, the registry of motor vehicles must "notify in writing any person whose application for a license has been denied" pursuant to the restrictions listed in section 31-10-3(a).<sup>3</sup> This notice must inform the individual of the "factual and legal basis for the denial, the procedure for requesting a hearing, and the rights afforded the individual pursuant to the provisions" of Rhode Islands General Laws section 31-11-7(d)-(f).<sup>4</sup> Furthermore, when the basis for such denial is physical or mental fitness, the

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1. See R.I. Gen. Laws § 31-10-3(b) (1956) (1994 Reenactment & Supp. 1998).

2. See *id.* Rhode Island General Laws section 31-10-3(a) sets forth the category of individuals whom may not be issued a license. *Id.* This category includes operators under the age of 16, chauffeurs under the age of 18, habitual drunkards, habitual users of drugs, individuals previously adjudged to be afflicted with any mental disability, and persons whose licenses are currently suspended or revoked. See *id.* § 31-10-3(a)(1)-(10).

3. *Id.* § 31-10-3(b).

4. *Id.* Rhode Island General Laws section 31-11-7(d)-(f) provides, in pertinent part, that:

The registry shall ensure that the hearing procedures afforded . . . provide for: (i) an in person hearing before an impartial decision-maker; (ii) the opportunity to compel the production of documents and witnesses, including members of the registry's Medical Advisory Board; (iii) the opportunity to confront and cross-examine witnesses; (iv) access to all of the evidence upon which the registry relied in making its determination to suspend; and (v) the rights to present any and all relevant evidence including the right to obtain and present the results of a recently administered road test. During any such hearing, the registry shall bear the burden of proof as to the existence of the grounds for the suspension. The registry shall further ensure that during a hearing to determine the physical or mental fitness of a licensee, proof of the lack of physical or mental fitness shall be by clear and convincing evidence. . .

registry must specify which standard was applied pursuant to the newly-enacted section 31-10-44(b).<sup>5</sup>

The Act also amends section 31-10-44, which created a medical advisory board to assist the registry in determining issues of physical and mental fitness, to require the application of certain promulgated standards.<sup>6</sup> According to the amendment, these promulgated standards shall "be based on current medical knowledge and objective data regarding fitness to safely operate motor vehicles, and will conform with the requirements of the Americans With Disabilities Acts" and other chapters under Rhode Island law.<sup>7</sup>

Upon the request of a denied applicant, the registry must afford that individual a hearing within twenty days after receiving the request.<sup>8</sup> This hearing must conform with the due process requirements set forth under Rhode Island General Laws section 31-11-7(d)-(f).<sup>9</sup>

The effect of the Act is to create a notification system whereby an applicant who has been denied a operator's or chauffeur's license is informed of his or her rights under Rhode Island law. Additionally, the Act requires that when denying an applicant on the basis of mental or physical fitness, the registry must consult the medical advisory board and apply standards based on current medical knowledge.

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For the purpose of the hearing procedures described in subsection (d), the registrar or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the license.

After the hearing conducted pursuant to subsection (d) the registry shall issue a written decision based solely on the evidence adduced at the hearing and containing the legal and factual basis for the determination. The registry may either rescind its order of suspension, determine suspension is not warranted, or may continue, modify, or extend the suspension of the license or revoke the license.

*Id.*

5. *See id.* § 31-10-3(b).

6. *See id.* § 31-10-44.

7. *Id.*

8. *See id.* § 31-10-3(b).

9. *Id.* § 31-10-3(c); *supra* note 4.

